

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FILED

September 14, 2005

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONE 1997 CADILLAC DEVILLE,
BEARING TEXAS REGISTRATION
8RCXP AND VIN 1G6KD52Y4VU218829;

ONE 1999 FORD F-350 TRUCK, BEARING
TEXAS REGISTRATION 6PMC75 AND
VIN 1FTWW32F1XEC78981;

ONE 1974 MASSEY FERGUSON FARM
TRACTOR, MODEL 1085, BEARING
SERIAL NUMBER 9B473I6;

ONE 2003 JOHN DEERE GATOR
BEARING VIN W006X4D03562;

ONE 1999 CHEVROLET TRUCK BEARING
TEXAS REGISTRATION 1YSM35 AND
VIN 1GCEC14W3XE130403;

ONE 2003 TOW MASTER TRAILER,
BEARING VIN 5HNFS352231000194;

ONE 2003 CM TRAILER, BEARING
TEXAS REGISTRATION CCSZ50 AND
VIN 49THG162131063821;

ONE 2002 FORD F-150 SUPERCREW
LARIAT TRUCK, BEARING TEXAS
REGISTRATION 7TGZ17 AND
VIN 1FTRW08L92KA13146;

CLERK, U.S. DISTRICT COURT

CIVIL NO. 3:04-cv-648-R

ONE BULLDOG TRAILER BEARING
TEXAS REGISTRATION CFZT04 WITH A
MILLER WELDER BEARING SERIAL
NUMBER LC497457 AND A CAMPBELL
HAUSFELD AIR COMPRESSOR BEARING
SERIAL NUMBER L1080201336;

ONE 2003 CALICO TRAILER, BEARING
TEXAS REGISTRATION CFJ V14 AND
VIN 4GASS202931001332; AND

ONE 1999 YAMAHA 600 GRIZZLY,
BEARING VIN JY4AJ02W7XA018727,

Defendants *In Rem.*

MEMORANDUM OPINION AND ORDER

This case involves Defendant Frederico Gonzalez’s (“Defendant” or “Claimant” or “Gonzalez”) claim to property seized by federal agents during the execution of a valid search warrant. The United States (“Plaintiff”) alleged the seized property was subject to forfeiture pursuant to 21 U.S.C. §881(a)(6) as the proceeds of illegal narcotics activity. The Court found that the property, to wit, one 1974 Massey Ferguson Farm Tractor, Model 1085, bearing serial number 9B473I6; one 2003 John Deere Gator, bearing VIN W006X4D03562; one 2003 Tow Master Trailer, bearing VIN 5HNFS352231000194; one 2003 CM Trailer, bearing Texas Registration CCSZ50 and VIN 49THG162131063821; one Bulldog Trailer, bearing Texas CFZT04 with a Miller welder bearing serial number LC497457 and a Campbell Hausfeld Air Compressor bearing serial number L1080201336; one 2003 Calico Trailer, bearing Texas Registration CFJ V14 and VIN

4GASS202931001332; and one 1999 Yamaha Grizzly, VIN JY4AJ02W7XA018727,¹ was indeed the result of proceeds from illegal drug trafficking and therefore subject to forfeiture.

This matter came before the Court for a half-day bench trial on August 30, 2005. The Court, having received and considered the evidence presented and having heard the testimony of witnesses and the argument of counsel, hereby renders the following Findings of Fact and Conclusions of Law, as permitted by Rule 52(a) of the Federal Rules of Civil Procedure:

I. FINDINGS OF FACT

1. Two witnesses testified in the trial - DEA Special Agent Shwan Aziz (“Aziz”) and Claimant. Forty-eight items were offered by the government and admitted into evidence by the Court.
2. The Court credits the testimony of Aziz as truthful and finds he was a credible witness. The Court found Gonzalez to be an untruthful witness and finds his testimony not credible. Therefore, based on the evidence and testimony, the Court finds the following:
 - a. Gonzalez was involved in a cocaine trafficking conspiracy in 2003.
 - b. Starting in February 2003 and up until his arrest on October 15,

¹ At trial, Gonzalez withdrew his claim to four articles of his property, specifically, the 1997 Cadillac Deville, bearing Texas Registration 8RCXP and VIN 1G6KD52Y4VU218829; the 1999 Ford F-350 truck, bearing Texas registration 6PMC75 and VIN 1FTWW32F1XEC78981; the 1999 Chevrolet truck bearing Texas registration 1YSM35 and VIN 1GCEC14W3XE130403; and the 2002 Ford F-150 Supercrew Lariat truck, bearing Texas registration 7TGZ17 and VIN FTRW08L92KA13146.

2003, Gonzalez acquired ten (10) to twenty (20) kilograms of cocaine per month, purchasing each kilogram for as little as \$10,000 per kilogram and selling it for \$14,000 to \$15,000.

- c. Gonzalez's Kaufman County ranch was lawfully searched by federal law enforcement agents on October 15, 2003.
- d. Gonzalez illegally possessed fifteen (15) kilograms of cocaine at his Kaufman County, Texas ranch on October 15, 2003.
- e. Approximately \$230,000 in cash was found at Gonzalez's Kaufman County, Texas ranch on October 15, 2003.
- f. Gonzalez was lawfully arrested at his Kaufman County ranch on October 15, 2003.
- g. The property at issue was found at Gonzalez's Kaufman County ranch on October 15, 2003.
- I. On October 15, 2003, after being advised of his *Miranda* rights and while in custody, Gonzalez voluntarily stated to federal law enforcement agents the fifteen (15) kilograms of cocaine at his ranch belonged to him and the cash was his profits from selling cocaine for two or three months.
- j. During the course of his voluntary statement, Gonzalez repeatedly stated "I'm guilty" and "you got me." In regard to the vehicles and equipment found on the ranch, he stated "they're yours now, y'all own it now", and "y'all caught me, what am I going to do, it's yours." Gonzalez further stated

that he owned the vehicles and equipment on the ranch and they had been purchased by him with the proceeds of drug trafficking.

- k. Gonzalez's statements were recorded in a DEA-6, a report prepared by a DEA agent involved in the investigation of the drug conspiracy involving Gonzalez.
- l. The property was lawfully seized by federal law enforcement agents.
- m. Gonzalez is the owner of the Defendant property.
- n. As a result of his involvement in the drug conspiracy, Gonzalez was indicted, convicted, and sentenced to life imprisonment in Cause No. 3:03-CR-329-G for violating 21 U.S.C. § 846 and money laundering in violation of 18 U.S.C. § 1956.
- o. In his Factual Resume in the criminal case, Gonzalez admitted participating in a drug trafficking conspiracy, buying and selling numerous kilograms of cocaine. Gonzalez also acknowledged the property alleged his Kaufman County ranch was derived from the proceeds of the drug trafficking conspiracy and was used by him to facilitate the drug conspiracy.
- p. Gonzalez voluntarily forfeited his Kaufman County ranch to the government. A Final Order of Forfeiture concerning the ranch was entered on August 16, 2004.
- q. Gonzalez's appeal of his conviction in Cause No. 3:03-CR-329-G was

dismissed by the Court of Appeals for the Fifth Circuit on August 15, 2005.

r. Gonzalez did not contest forfeiture of the approximately \$230,000 in cash found on his ranch on October 15, 2003.

3. Accordingly, the Court finds Gonzalez purchased the Defendant property with proceeds from drug trafficking. Of all the evidence and testimony offered in the trial concerning the origin of the Defendant property, the Court finds most compelling the voluntary statements Gonzalez made subsequent to his lawful arrest.

II. CONCLUSIONS OF LAW

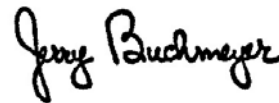
4. This is a civil forfeiture action for the forfeiture of the Defendant property brought pursuant to 18 U.S.C. § 983(a)(3)(A). The Court has jurisdiction of this cause pursuant to 28 U.S.C. §§ 1345 and 1355(a). Venue is proper under 28 U.S.C. § 1355(b)(1) and 28 U.S.C. § 1395(b).
5. In a civil forfeiture suit, the Government bears the initial burden of establishing probable cause that the property is subject to forfeiture. See 21 U.S.C. § 1615. Under §881(a)(6). The Government must establish probable cause for the specific belief that there is a “substantial connection” between the defendant property and illegal drug dealing under Title 21 of the United States Code. 21 U.S.C. § 1615 (providing that “all proceeds traceable to an exchange [for controlled substances]” are “subject to forfeiture.”); see also *United States v. \$64,000.00 in U.S. Currency*, 722 F.2d 239, 244 (5th Cir. 1984).

6. After the plaintiff in a forfeiture proceeding establishes probable cause, the burden of proof shifts to the claimant to show by a preponderance of the evidence that the money used to purchase the properties in question came from an independent, non-drug-related source. *United States v. One 1986 Nissan Maxima GL*, 895 F.2d 1063, 1065 (5th Cir. 1990).
7. Based on its findings of fact, the Court concludes the government has established by a preponderance of the evidence that the Defendant property is property subject to forfeiture under 21 U.S.C. § 881(a)(6).
8. Gonzalez has established no defense to the forfeiture of his property.

III. CONCLUSION

For the reasons stated above, the Court concludes that Defendant property at issue in this case is property subject to forfeiture under 21 U.S.C. § 881(a)(6).

It is so **ORDERED**.
SIGNED: September 14, 2005



**JUDGE JERRY BUCHMEYER
SENIOR U.S. DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS**